

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
Assigned November 23, 2015

IN RE RAVEN P.

**Appeal from the Juvenile Court for Davidson County
No. 48140494, PT151267 Betty K. Adams Green, Judge**

No. M2015-01544-COA-R3-CV – Filed November 24, 2015

This is an appeal from a juvenile court order assessing a portion of the mother's attorney's fees against the father's counsel. Because the father's counsel did not file her notice of appeal within thirty days after entry of the judgment as required by Tenn. R. App. P. 4, we dismiss the appeal.

Tenn. R. App. P. 3 Appeal as of Right; Appeal Dismissed

FRANK G. CLEMENT, JR., P.J., M.S., ANDY D. BENNETT and RICHARD H. DINKINS, JJ.

Yvette Yolanda Cain, Nashville, Tennessee, Pro se.

Shantell Pillow, Nashville, Tennessee, Pro se.

MEMORANDUM OPINION¹

This case began with the mother's filing of a petition to modify child support. After the mother voluntarily dismissed her petition, the parties continued to litigate over the issue of attorney's fees. On July 2, 2015, the trial court entered a final judgment assessing a portion of the mother's attorney's fees against the father's counsel, Yvette Cain. Ms. Cain filed a notice of appeal from the July 2, 2015 order on August 5, 2015.

¹ Tenn. Ct. App. R. 10 states:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

Tenn. R. App. P. 4(a) requires that a notice of appeal be filed with and received by the trial court clerk within thirty (30) days after entry of the order appealed. Ms. Cain did not file her notice of appeal with the trial court clerk until thirty-four (34) days after entry of the order appealed. Ms. Cain, however, asserts the July 2, 2015 order was not effectively entered pursuant to Tenn. R. Civ. P. 58. In order to be effectively entered, a judgment must contain, in addition to the judge's signature, either: (1) the signatures of all parties or counsel; (2) the signature of one party or counsel with a certificate of the party or counsel that a copy of the proposed order has been served on all other parties or counsel; or (3) a certificate of the clerk that a copy has been served on all other parties or counsel. Tenn. R. Civ. P. 58. Ms. Cain alleges the order contains only the signature of the judge. However, the record on appeal shows that the order also contains a certificate of service signed by a deputy clerk on July 2, 2015. The order was thus properly entered pursuant to Tenn. R. Civ. P. 58.

The time limit for filing a notice of appeal is mandatory and jurisdictional. *Albert v. Frye*, 145 S.W.3d 526, 528 (Tenn. 2004); *Binkley v. Medling*, 117 S.W.3d 252, 255 (Tenn. 2003). This court can neither waive nor extend the time period. Tenn. R. App. P. 2 and 21(b); *Flautt & Mann v. Council of City of Memphis*, 285 S.W.3d 856, 869 (Tenn. Ct. App. 2008); *Jefferson v. Pneumo Serv. Corp.*, 699 S.W.2d 181, 184 (Tenn. Ct. App. 1985). The failure to file a timely notice of appeal deprives this court of jurisdiction to hear the matter. *Flautt & Mann*, 285 S.W.3d at 869.

The appeal is dismissed for failure to file a notice of appeal. Yvette Cain is taxed with the costs for which execution may issue.

PER CURIAM